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RUEHIT/AMCONSUL ISTANBUL 2775
RUEHBS/USEU BRUSSELS
RUEHVEN/USMISSION USOSCE 3091
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SENSITIVE

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SUBJECT: TURKMENISTAN: NEW COMMERCIAL MARITIME CODE, TRADEMARK
PROTECTION LAW, AND INDUSTRIAL PROPERTY PROTECTION LAWS ADOPTED

¶1. (U) Sensitive but unclassified. Not for public Internet.

¶2. (SBU) SUMMARY: Turkmenistan recently enacted three laws in the commercial sphere - a Commercial Maritime Code, a Trademark Protection Law, and a Law on Inventions and Industrial Designs. If the Trademark Protection Law and the Law on Inventions and Industrial Designs are enforced, it will be an important step forward in economic reform and laying the legislative foundation for protecting the rights of inventors and commercial entities. END SUMMARY.

¶3. (SBU) Recently, Turkmenistan adopted three new laws in the commercial sphere - a Commercial Maritime Code, a Trademark Protection Law, and an Industrial Property Protection Law. The Commercial Maritime Code was published in the official newspaper, "Neytralniy Turkmenistan," on November 6, 2008. The law regulates issues related to commercial navigation. Property issues, which come out of the present law, are resolved according to the Civil Code of Turkmenistan.

¶4. (SBU) The new law can be applied to ships in open seas and in internal water ways, to mixed class ships "river-sea," when they navigate in seas, as well as for ships in internal water ways. It deals with the transport of freightage, shipping passengers and their baggage to a foreign port, emergency operations and accidents with another ship. The law cannot be applied to military ships and other vessels, which are owned or used by states for state non-commercial activities and non-commercial freight.

¶5. (SBU) The law provides for regulation of commercial navigation and establishes state supervision over: 1) observation of international treaties on commercial navigation that Turkmenistan is a party to as well as domestic legislation regarding commercial navigation; 2) protection of human lives on the sea; 3) certification of crew members regardless of their departmental identity; 4) state registration of ships and ship ownership titles; 5) pilot service and sea traffic control systems; 6) life saving service; 7) maintenance of sea ways; and 8) protection of sea environment. Government regulation of sport and pleasure boats is also covered. Certain types of activities in the field of commercial navigation require licensing.

LAW ON INVENTIONS AND INDUSTRIAL DESIGNS

¶6. (SBU) The Law of Turkmenistan on inventions and industrial designs was announced in "Neutralniy Turkmenistan" on November 4, 2008. This law mandates the legal protection and regulates the use of inventions and industrial designs. According to the law, the Patent Department of the Ministry of Economy and Finance implements protection of industrial property. The Ministry of Economy and Development is responsible for Turkmenistan's obligations under international agreements on legal protection of industrial property. An Appeals Commission is in charge of processing appeals to patent decisions, and the Court of Appeals reviews disputes and instances of illegal usage. The right to invention and industrial design is protected by trademark.

¶7. (SBU) The law provides for temporary protection of industrial property under a type of patent pending designation. After a patent expires, the product becomes available to the public for free (public domain). Most patents last 20 years, with the exception of limited pattern which is 10 years.

¶8. (SBU) The law outlines who can be considered the author of an invention or industrial design and states that copyright is inalienable and protected without limit in time. It also provides provisions for copyright remuneration. Articles dealing with the rights of a patent holder, provisions for transferring or willing a patent to another person, and how to close a patent are also included in the law, as well as definitions of patent violations. According to the law, the Cabinet of Ministers establishes the list of fees, amounts, and time and order of payment. The law describes the procedure for reviewing international applications and for patenting inventions and industrial designs in foreign countries.

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¶9. (SBU) The law states that "in accordance with international agreements, Turkmenistan is a party to or, based on the principle of reciprocity, foreigners enjoy the rights provided by the present law as Turkmen citizens do." It adds that foreigners and Turkmen nationals permanently residing abroad may exercise their rights thorough patent agents registered in Turkmenistan, unless international agreements of which Turkmenistan is a party require doing this in a different way.

LAW ON TRADEMARKS

¶10. (SBU) The Law of Turkmenistan on trade and service marks and places of origin was announced in "Neytralniy Turkmenistan" on November 5, 2008. This law provides for the legal protection and use of trademarks, after their registration at Turkmenpatent. Turkmenpatent issues a certificate of registration within three months of application. After registration, the trademark is valid for ten years from the date of application. According to the law, the Patent Department of the Ministry of Economy and Finance protects industrial property. The Ministry of Economy and Development is responsible for Turkmenistan's obligations under international agreements on legal protection of industrial property. An Appeals Commission is in charge of processing appeals regarding trademark decisions, and the Court of Appeals reviews disputes and instances of illegal usage. According to the law, the Cabinet of Ministers sets the fees, time and order of payment. The law describes the procedure for reviewing international applications.

¶11. (SBU) COMMENT: These laws are important steps forward in economic reform and laying the legislative foundation for protecting the rights of inventors and commercial entities. As with all laws in Turkmenistan, the test will be how well they are enforced. END COMMENT.

MILES